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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,645	12/29/2000	Delmar Lanzer	MRI0003	9250
27268	7590	11/18/2004	EXAMINER	
BAKER & DANIELS 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204-1782			FLORES SANCHEZ, OMAR	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,645

Applicant(s)

LANZER, DELMAR

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11-15, 17-29, 34-44, 48 and 49 is/are pending in the application.
- 4a) Of the above claim(s) 2-8, 11-13, 17-24, 29 and 34-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 14, 15, 25-27, 29, 41-44, 48 and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment received on 7/02/04.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 14-15, 25-27, 29, 31-32, 46 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by O. F. Kleeb et al. (1,730,938).

Kleeb discloses (Fig. 1-4) the invention including a platform (1 and 2), a support plate 19, a saw assembly, a balancing apparatus 60, a saw blade 22, an oscillating mechanism (see Fig. 1), and a pair of pivot supports 21, a counterweight 61, a beam 20 and an aperture (Fig. 1 and 2). The balancing apparatus 60 and the support plate 19 move in opposite directions. More specifically, when the balancing apparatus goes up, the support plate goes down, and vice-versa.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over O. F. Kleeb et al. in view of A. C. Jacobson.

Kleeb discloses the invention substantially as claimed including a platform 1, a support plate 19, a saw assembly, a balancing apparatus 60, a saw blade 22, an oscillating mechanism (see Fig. 1), and a pivot support 21, a counterweight 61, a beam 20 and an aperture (Fig. 1 and 2). Kleeb does not show a rotatable member and a fixed member. However, Jacobson teaches the use of a rotatable member 36 and a fixed member 1 for the purpose of rotating the base 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Kleeb's cutter by providing the rotatable member and a fixed member as taught by Jacobson in order to set the device to any degree.

6. Claims 1, 14, 15, 25-27, 29, 41-42, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavis (4163404) in view of O. F. Kleeb et al. (1,730,938).

Lavis discloses (Fig. 1-9) the invention substantially as claimed including a platform (1-4), a support plate (phantom line in Fig. 2), a saw assembly 35, a balancing apparatus/counterweight 21, a saw blade 38 and a pair of pivot supports 6 and an aperture (Fig. 3). The balancing apparatus 21 and the support plate 9 move in opposite directions. More specifically, when the balancing apparatus goes up, the support plate goes down, and vice-versa. Lavis does not show an oscillating mechanism and a beam. However, Kleeb et al. teach the use of an oscillating mechanism (see Fig. 1) and a beam 20 for the purpose of automatically driving the saw. It would have been obvious to one having ordinary skill in the art at the time the invention

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was made to have modified Lavis's device by providing the oscillating mechanism and the beam as taught by Kleeb et al. in order to obtain a device that automatically drive the saw.

Response to Arguments

7. Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that Kleeb does not show an oscillating mechanism disposed on the platform. However, Kleeb teaches the oscillating mechanism disposed on the platform (1 and 2).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kaltenbach is cited to show related device.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 703-308-0167.

The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 15, 2004



KENNETH E. PETERSON
PRIMARY EXAMINER